



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

May 2, 2011

Wendy Messenger
Federal Railroad Administration
1200 New Jersey Avenue S.E. MS-20
Washington, DC 20590

Subject: Final Environmental Impact Statement for the Proposed DesertXpress High-Speed Passenger Train from Victorville, California to Las Vegas, Nevada (CEQ #20110097)

Dear Ms. Messenger:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508) and Section 309 of the Clean Air Act.

EPA provided comments on the Draft Environmental Impact Statement (DEIS) for this project in a May 22, 2009 letter. We rated the DEIS as *Environmental Concerns – Insufficient Information* (EC-2) due to concerns about a number of potential issues, including independent utility and logical termini, impacts to aquatic resources, impacts to air quality, and relationship to other projects proposed for the same transportation corridor. EPA then reviewed the Supplemental DEIS and provided comments on April 27, 2009. Due to continuing concerns that had not been addressed since our May 2009 comments, as well as additional concerns about the project modifications and new information provided in the SDEIS, we rated the SDEIS as EC-2. After review of the Final Environmental Impact Statement (FEIS), we have some remaining concerns, which are discussed in the attached comments. We appreciate the opportunity we had to discuss our comments with the Federal Railroad Administration (FRA) on April 29, 2011.

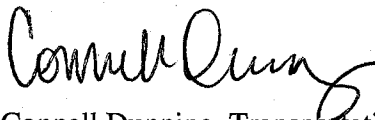
EPA supports the potential role that high speed rail service can play in reducing automobile trips and improving air quality, so long as the project is planned, sited, and constructed in a sustainable manner. While we commend the FRA for seeking to provide a public transportation option in the Southern California and Southern Nevada area, we continue to have concerns raised in the DEIS and SDEIS about the siting of the project southern terminus in Victorville, rather than a terminus in a larger population center with other transit connections. We continue to recommend consideration of an option of connecting the high speed train service

to the greater Los Angeles area, thereby reducing the number and length of individual automobile trips required to get to Victorville.

In our comments on the SDEIS, we highlighted the fact that the U.S. Department of Transportation (DOT) has committed to supporting sustainable communities through the HUD/DOT/EPA Partnership for Sustainable Communities. We believe that with additional project commitments, such as coordination with other transit providers to facilitate intermodal connections, commitments to work with local land use planning authorities to implement land use controls in the station area and surrounding areas, and commitments to coordinate this project with other federal investments in the project area, this project could better support the principles that HUD, DOT, and EPA committed to supporting as part of the Partnership.

The attachment comments further describe EPA's additional concerns, including the projects impacts to aquatic resources, air quality, and environmental justice communities. We also provide specific recommendations for future Clean Water Act Section 404 permitting. We appreciate the opportunity to review this FEIS. When the ROD is signed, please send one copy to the address above (mail code: CED-2). If you have any questions, please contact Carolyn Mulvihill (415-947-3554 or mulvihill.carolyn@epa.gov) of my staff.

Sincerely,



Connell Dunning, Transportation Team Supervisor
Environmental Review Office
Communities and Ecosystems Division

Attachments: EPA's Detailed Comments

cc (via email): Veronica Chan, U.S. Army Corps of Engineers
Patricia McQueary, U.S. Army Corps of Engineers
Mark Littlefield, U.S. Fish and Wildlife Service
Sally Brown, U.S. Fish and Wildlife Service
Janet Bair, U.S. Fish and Wildlife Service
Dan Leavitt, California High Speed Rail Authority
Ray Sukys, Federal Transit Administration
Shawn Oliver, CA Division, Federal Highway Administration
Greg Novak, NV Division, Federal Highway Administration
Scott Wilson, California Department of Fish and Game
Brad Hardenbrook, Nevada Department of Wildlife
John Chisholm, Caltrans
Ronald Kosinski, Caltrans
David Bricker, Caltrans
Lewis Wallenmeyer, Clark County Department of Air Quality and Environmental Management
Steve Cooke, Nevada Department of Transportation

Project Purpose, Need and Independent Utility

In our comments on the DEIS and SDEIS, EPA questioned the independent utility of the project and the logical terminus in Victorville, and requested further justification for these decisions in the FEIS. In our comments on the SDEIS, we also highlighted the fact that the California Department of Transportation is currently proposing a High Desert Corridor project that would construct an east-west connection between State Route 14 and Interstate 15 (I-15), and that includes alternatives with right-of-way for high speed rail. The High Desert Corridor project could provide a future connection between the proposed DesertXpress project and the California High Speed Rail system.

While the FEIS states that the ridership study and subsequent reviews prepared for DesertXpress reflect a substantial demand for rail service in the corridor between Victorville and Las Vegas, and therefore demonstrate independent utility for this corridor, EPA continues to question the relative benefit of a project terminus in Victorville, rather than a terminus in a larger population center with other transit connections.

The DEIS states that improvements to this corridor are considered necessary to provide for the existing and projected traffic demand attributed to large-scale growth and projected traffic along the Victorville to Las Vegas corridor. However we continue to have concerns about the fact that the ridership and market projections discussion included in the FEIS is based on the DesertXpress Updated Ridership and Revenue Study prepared in December 2005 and the DesertXpress Ridership Forecast Review prepared in February 2008, and does not consider the economic downturn of the past few years, as we recommended in our DEIS comments. FRA has stated that information they have received indicates that travel in this corridor has increased in recent years despite the economic downturn. However, in the absence of a more recent ridership study, EPA remains concerned about the FEIS conclusions.

EPA also has remaining concerns about the air quality and growth inducement impacts of a project terminus in Victorville, due to the fact that the majority of riders would drive to the station from larger population centers throughout Southern California. We reiterate our recommendation that FRA coordinate with other public and private transit providers to encourage non-automobile trips to the DesertXpress stations. We specifically recommend coordination with local transit providers in Las Vegas, such as the Regional Transportation Commission of Southern Nevada, in order to facilitate intermodal connections.

In our comments on the SDEIS, we highlighted the fact that the U.S. Department of Transportation (DOT) has committed to supporting sustainable communities through the HUD/DOT/EPA Partnership for Sustainable Communities. We believe that with additional project commitments, such as coordination with other transit providers to facilitate intermodal connections, commitments to work with local land use planning

authorities to implement land use controls in the station area and surrounding areas, and commitments to coordinate this project with other federal investments in the project area, this project could better support the principles that HUD, DOT, and EPA committed to supporting as part of the Partnership.

We note that FRA is the lead federal agency for the proposed California-Nevada Interstate Maglev project as well as the DesertXpress project. Our comments on the DEIS had questioned how these two projects, both proposed for the same transportation corridor, would ultimately be compared in terms of fulfilling the purpose and need of providing passenger rail in the same corridor, while minimizing impacts. We continue to believe that FRA should provide a comparison of the potential costs, benefits, and environmental impacts of these two competing proposals so that decision-makers can clearly see a comparison of the potential costs, benefits, and environmental impacts of each technology.

Hydrology and Aquatic Resources

In our comments on the DEIS and SDEIS, EPA recommended that a jurisdictional determination (JD) by the U.S. Army Corps of Engineers (USACE) be completed prior to publication of the FEIS in order to provide a determination of potential significant impacts and identify avoidance, minimization, and mitigation measures in the design of the project. The FEIS states that the project applicant has submitted JD reports to USACE but they have not been verified by USACE. The FEIS states that the project will impact 5.96 acres of waters of the U.S.

EPA understands that the applicant and USACE are in consultation regarding impacts, minimization measures, and the Clean Water Act (CWA) Section 404 permitting process. While the applicant has chosen to engage in the CWA Section 404 permitting process separately from the NEPA process, in our comments on the SDEIS, EPA continued to encourage FRA to include information on impacts and avoidance, minimization, and mitigation measures in the FEIS. EPA strongly encourages FRA to include avoidance, minimization, and mitigation measures, which will be required in order to receive a CWA Section 404 permit, in the ROD.

EPA understands that the USACE will be issuing Nationwide Permits for the project. If this is the case, an alternatives analysis and demonstration that the preferred alternative is the least environmentally damaging practicable alternative (LEDPA), as discussed in our DEIS comments, is not required. However, avoidance and minimization measures are required, and these should be included as commitments in the ROD. While the Project applicant will be obtaining the CWA Section 404 permit, FRA should include mitigation commitments in the ROD.

The FEIS states that the project design will incorporate the use of existing natural drainage features, as appropriate, in order to minimize disruption of natural flow and function and that stormwater runoff would be directed away from the trackway using natural and other local drainage systems in their present location and unmodified form as

feasible. It also states that where the rail alignment would divert from the existing I-15 freeway, the project would include clear span crossings for all ephemeral drainages equal to or greater than four feet in width. As stated in our DEIS comments, we strongly encourage FRA to commit to the use of natural washes, in their present location and natural form, to the maximum extent practicable with the placement of adequate natural buffers for flood control. We also encourage FRA to improve obstructed natural flows where practicable during project construction.

The FEIS does not include quantitative information about indirect impacts to aquatic resources. Information about the extent of indirect impacts, as well as efforts to avoid and minimize those impacts, will be important to identify in the 404 permit process.

Water Quality Impacts of Victorville Station Site 3

The FEIS states that the proposed Victorville Station Site 3 (VV3) was selected as part of the Preferred Alternative due to the reduced traffic impacts at local intersections and cumulative effects when compared to the other station site alternatives. The FEIS also states that VV3 requires a larger footprint than the other two station options because VV3 emphasizes surface parking areas instead of structured parking. EPA is concerned about the impact of this facility on hydrology, water quality, and other resources. FRA's decision to construct surface parking instead of structured parking will result in higher stormwater runoff and potential impacts to water quality than either of the other station options. EPA strongly encourages FRA to reconsider a smaller footprint, elevated parking structure and to commit to reduced impacts and aggressive best management practices (BMPs) to control and treat stormwater during construction and operation of the facility, and monitoring to ensure effectiveness of the BMPs. Commitment to less impacting design and BMPs should be included in the ROD.

Growth-Related Impacts

The FEIS states that because the station areas in Victorville are planned for growth, the proposed project would not have any growth inducement impacts. While the area surrounding the preferred station site in Victorville may be planned for growth, the DesertXpress project would undoubtedly impact the timing and potentially the form of that growth. In addition, since the chosen station site (VV3) is the site alternative that is located further from existing development than either of the other station site alternatives, growth-related impacts would likely be greater than with the other station sites. Mitigation measures, such as commitments to work with local land use planning authorities to implement land use controls in the station area and surrounding areas, should be included in the ROD. The ROD should also include references to the transit-oriented principles that FRA has developed as part of the California High Speed Train system.

Air Quality

While we recognize that the project could reduce air quality impacts by reducing freeway traffic, EPA remains concerned about localized impacts during both construction and operation. We support the decision to choose the EMU technology option, but continue to encourage FRA to commit to mitigation of localized impacts, particularly near sensitive receptors and in environmental justice communities.

In our comments on the DEIS, we noted the absence of a thorough discussion of localized PM₁₀ air quality impacts and we recommended that the FEIS include a qualitative analysis of potential PM₁₀ hot spot impacts. The FEIS states that it is appropriate to predict concentrations of PM₁₀ and PM_{2.5} on a regional and localized basis, and includes an analysis of CO hot spot impacts, but does not contain an analysis of localized PM₁₀ impacts.

Construction Mitigation Measures

The FEIS states that construction activity would result in pollutant levels that would exceed general conformity de minimus levels without mitigation. It states that Mitigation Measures AQ-1, AQ-3, and AQ-5 will be required to reduce construction period emissions to below general conformity de minimus thresholds. Accordingly, FRA should commit to the mitigation measures that will reduce emissions to below the de minimus level in the ROD. All applicable state and local requirements for reduction of PM and other toxics from construction-related activities should also be included in the ROD.

We remain concerned about potential hot spot impacts during construction. While the FEIS indicates that the mitigation measures will reduce total emissions levels, the FEIS does not justify that sensitive receptors in the vicinity of construction activities will not experience adverse impacts. For example, the FEIS notes that single-family residential development is located approximately 250 feet to the north and to the south of the proposed Frias Substation. We also note in our comments below the proximity of residential areas to the Preferred Alternative Las Vegas Central Station B site option. In order to mitigate potential adverse impacts to sensitive receptors in the vicinity of construction activities, we encourage FRA to include commitments to aggressive mitigation measures in the ROD.

Mobile Source Air Toxics

In our comments on the DEIS, EPA noted that the DEIS did not include an analysis of the project's potential mobile source air toxics (MSATs) impacts, both from construction activities in the vicinity of residential populations, and from vehicle idling in the vicinity of the vehicle parking facility in Victorville (now proposed to have 12,700 parking spaces) and the 2,000 vehicle proposed parking facility in Las Vegas. We recommended that these facilities be designed and located to avoid impacts to sensitive receptors.

We also recommended that in the FEIS, FRA identify homes and other sensitive receptors located within at least 200 meters (approximately 656 feet) of project alternatives in Victorville, Baker, Barstow, and Las Vegas, where there would be increases in truck and construction traffic/idling, increased roadway and rail traffic, construction activities, and vehicular traffic to and from parking structures and staging area activity, and compare these numbers between alternatives.

The FEIS response to comments section states that the locations where traffic levels would be the highest would be at passenger stations, and that the Victorville and Las Vegas passenger stations are not located near sensitive land uses. However, we note that the FEIS provides information to the contrary, stating in the *Land Use and Community Impacts* Chapter of the FEIS that residential uses are within approximately 300 feet of the Preferred Alternative Las Vegas Central Station B site option and that the residents could be exposed to air quality, traffic, and noise impacts associated with the station. EPA has concerns about potential MSAT impacts to these residents, particularly because this is an environmental justice community. In order to mitigate potential adverse impacts to this community, we encourage FRA to include commitments to aggressive mitigation measures in the ROD, including design options to minimize MSAT and other localized air emissions.

Environmental Justice

In our comments on the SDEIS, EPA recommended that the FEIS include more detailed information on the distance between the proposed alignment and sensitive receptors, such as residences, and potential impacts on those receptors. The FEIS identifies potential impacts in areas along the proposed corridor; however it does not evaluate localized impacts to minority or low-income communities in the immediate vicinity of the project. The ROD should include commitments to mitigation measures for any disproportionately high and adverse impacts on minority populations or low-income populations.

For example, since the “side running” option has been chosen for Segment 2C, and this will result in more severe noise impacts to an environmental justice community than the “median” option would have resulted in, FRA should include commitments in the ROD to mitigate the resulting these and all noise impacts.

The FEIS also states that residents adjacent to the Preferred Alternative are already exposed to substantial transportation infrastructure and associated environmental impacts, and therefore the project would not introduce substantial new effects to the environmental justice communities. Additional impacts to already burdened communities is likely to be significant and must be considered and mitigated. For example, the FEIS states that residents in the vicinity of the proposed Las Vegas Central Station B are within 300 feet of the proposed station location, are already exposed to noise and air quality impacts from the I-15 freeway, and could be exposed to air quality, traffic, and noise impacts associated with the proposed station. Commitments to mitigate these impacts should be included in the ROD.

Wildlife Impacts

We acknowledge FRA's plan to coordinate with wildlife agencies in the design and spacing of culverts and fencing, to ensure that appropriate wildlife crossings are available. FRA should commit to this coordination in the ROD to ensure appropriate design and location of wildlife crossings.